

LAW OFFICES OF
SCOTT B. TULMAN & ASSOCIATES, PLLC

THE HELMSLEY BUILDING
230 PARK AVENUE, 18th Floor
NEW YORK, NEW YORK 100
(212) 867-3600

stulman@tulmanlaw.com
WWW.TULMANLAW.COM

December 11, 2023

The Honorable Katherine P. Failla
United States District Judge
Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square
New York, New York 10007

MEMO ENDORSED

Re: United States v. Andrew Lloyd
S2 20 CR 524 (KPF)

Dear Judge Failla:

I am appointed counsel for Andrew Lloyd. The above matter is scheduled for a remote conference on December 19, 2023. I respectfully request that the remote status conference be adjourned for a remote conference during the week beginning January 29, 2024, while defense counsel pursues its appeal of the Government's denial of a deferred prosecution agreement. The Government consents to this request. Should there be a disposition, the defendant will appear in person.

As the Court is aware from my prior letter motions (ECF Doc. Nos. 83, 95, 99, 106), the defense is appealing the Government's denial of his request to enter into a deferred prosecution agreement, predicated largely on the severe mental illnesses from which Mr. Lloyd has suffered since childhood contributing to the offense behavior in which Mr. Lloyd engaged.¹ On or about November 19, 2023, an *ex parte* request was endorsed permitting the defense to retain Mark J. Mahoney, Esq. as a consultant in connection with this appeal because of his expertise with the defense of clients, like Mr. Lloyd. Mr. Mahoney familiarized himself with this case, and we had a lengthy, virtual meeting with Mr. Lloyd on Saturday, December 2, 2023. Mr. Mahoney seeks to do additional testing on Mr. Lloyd, coordinate with Mr. Lloyd's treating clinician, and confer with Mr. Lloyd's Pretrial Services Officer in connection with submissions to be included with our appeal.

¹ Additionally, the defendant then 24 years old, fully cooperated with the FTC when it commenced an enforcement proceeding in 2017, and he had been filing compliance reports with the FTC at the time of his arrest. The Government made a misdemeanor offer to Mr. Lloyd on September 7, 2023, which remains an open offer.

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Since it appears that there will be some delay in this case on account of the current stay pending the co-defendant Michael Brown's interlocutory appeal (ECF Doc. No. 111), we would respectfully seek an adjournment of the virtual conference scheduled for December 19, 2023, so that additional work can be done on the written submission to the Government in connection with the appeal of the denial of a deferred prosecution.

Since the defense will not be able to report to the Court on future proceedings it contemplates in this matter until the appeal of the denial of his request for a deferred prosecution is heard and determined, and since that appeal will not be heard until mid-January 2024, we respectfully submit that the status conference scheduled for next Tuesday, December 19, 2023, be adjourned to the week beginning January 29, 2024.

Defendant agrees that the time through the adjourn date of the conference should be excludable under the Speedy Trial Act pursuant to 18 U.S.C. §§3161(b)((7)(A) and (h)(7)(B)(iii) because the ends of justice are served in granting this extension to allow for exploration of a pretrial disposition which outweighs the interest of the public and defendant in a speedy trial. Four prior requests have been made for adjournments of the status conference in this matter as to Mr. Lloyd.

I thank the Court for its consideration of this request.

Respectfully submitted



Scott B. Tulman

SBT:ss
cc: Sagar Ravi, Esq., AUSA

Application GRANTED. The status conference scheduled for December 19, 2023, is hereby ADJOURNED to **February 1, 2024**, at **10:00 a.m.** The conference will proceed via videoconference, unless it involves a pre-trial disposition proceeding requiring a personal appearance by Defendant.

It is further ORDERED that time is excluded under the Speedy Trial Act between **December 19, 2023**, and **February 1, 2024**. The Court finds that the ends of justice served by excluding such time outweigh the interests of the public and the Defendant in a speedy trial because it will permit the parties to continue their discussions regarding a pretrial disposition.

The Clerk of Court is directed to terminate the motion pending at docket number 112.

SO ORDERED.

Dated: December 13, 2023
New York, New York



HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE